

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**WBENGDA ESHTU LEGESSE,**

Petitioner,

v.

Civil Action No. **3:15CV654**

**HAROLD W. CLARKE,**

Respondent.

**MEMORANDUM OPINION**

Petitioner, a Virginia state prisoner proceeding *pro se*, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By Memorandum Order entered on November 13, 2015, the Court directed Petitioner to complete and return, within fifteen (15) days of the date of entry thereof, an affidavit in support of his request to proceed *in forma pauperis* or pay the \$5.00 filing fee. More than fifteen (15) days have passed and Petitioner has not returned the required *in forma pauperis* affidavit.

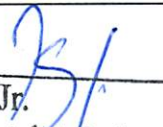
Petitioner has failed to pay the assessed fee or adequately explain any special circumstances warranting excuse from payment. Accordingly, the petition will be DISMISSED WITHOUT PREJUDICE.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue unless a prisoner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to

proceed further.”” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). No law or evidence suggests that Petitioner is entitled to further consideration in this matter. The Court will deny Petitioner a certificate of appealability.

An appropriate Order shall issue.

Date: 12/23/15  
Richmond, Virginia

/s/   
John A. Gibney, Jr.  
United States District Judge